

Memorandum

TO: Vocational Rehabilitation Counselors
CC: Vocational Rehabilitation Specialists, Kris Peterson
FROM: Glenn Morton
DATE: December 8, 2006
SUBJECT: Meeting Announcement & Results of November 17, 2006 Meeting

The next informal meeting between court staff and certified vocational rehabilitation counselors is scheduled for Friday, December 15, 2006, at 2:00 pm. The meeting will be held at the court's administrative offices at 1221 "N" Street, Suite 402, in Lincoln (TierOne Center). This is the final regularly scheduled quarterly meeting for this year. The schedule for the 2007 meetings will be considered at the December 15, 2006 meeting.

The following are the results from the November 17, 2006 meeting. If you have questions or concerns about any of the discussions or decisions at this meeting please notify the court prior to the next meeting and they will be considered at that time.

1. Recent VR Rule Changes. It was announced that the rule changes discussed and agreed to at previous counselor/specialist meetings were formally adopted by the judges of the court on November 16, 2006, and became effective as of that date.

There were questions as to whether loss of earning power reports must now be filed with the court under Rule 37,A ,and whether a VR-42 form must now be filed under Rule 42,A when a counselor is agreed upon to perform a loss of earning power evaluation. It was acknowledged that these questions were not considered prior to the proposal and passage of the rules, and no clear answers were given during the meeting. However, a subsequent close reading of Rules 37,A and 42,A leads to the conclusion that the answer to both questions is "yes." Rule 37,A now applies whenever a counselor is "agreed to or appointed pursuant to Rule 42", and Rule 42,A now clearly applies when a counselor is agreed upon to do a loss of earning power evaluation.

Related questions were also raised as to whether a rebuttal loss of earning power report or a rebuttal to a rebuttal loss of earning power report must also be filed with the court. The answer depends on whether the counselor is "agreed to or appointed pursuant to Rule 42." If the counselor is agreed to or appointed pursuant to Rule 42, then any reports by the agreed to or appointed counselor must be filed with the court. Generally, this means that a rebuttal report would not be filed with the court, but a rebuttal to a rebuttal report would be filed with the court.

2. Labor Market Information: The primary topic for the meeting was plan justification and the plan approval/denial process, with the initial focus on labor market information. A number of questions were raised as follows, with significant discussion but little firm resolution. Discussion will continue at the December 15th meeting.

a. Is labor market information required in every plan? There was agreement that labor market information is needed in every case, but the information will be different depending on the case and type of case. A distinction was noted between information related to the current labor market, for job placement purposes, and information related to the future market, for purposes of determining whether jobs will be available after retraining.

b. Is a labor market survey required in every plan? It was suggested that labor market information is the product of research, which can include a survey of employers as well as information from other sources such as job postings and company web sites. A related question was whether direct calling to employers is always required, and the apparent consensus was not necessarily, if sufficient information is available from other sources.

c. What are the standards for labor market information? There was a beginning discussion, but no significant outcome, as to what the standards should be for a labor market information. There was reference to requirements agreed to at the June 25, 2004 counselor/specialist meeting, as reflected in the outcomes memorandum from that meeting. There was reference to a best practice listing prepared by the group early on in our meetings, with a suggestion that this should be looked at again. There was reference to national standards of practice from Roger Weed and others, with a suggestion that these should also be considered. Counselors and specialists were invited to bring whatever materials, practice standards, etc. they wish to consider at the next meeting.

In summary, Glenn Morton restated the goal of arriving at a policy which will give the counselors better guidance as to what is needed for labor market information, and which will give the court specialists something to point to when the labor market information is lacking or insufficient. The intent is to arrive at a balance that will result in more consistency from both sides, while still allowing for the flexibility needed by both sides in individual cases.

3. Next meeting agenda items. At the next meeting on December 15, 2006, we will address the following:

Plan justification and plan approval/denial process. We will continue discussing labor market information and move on to other issues relating to plan justification and the plan approval/denial process as time permits.

4. Future meeting agenda items. The following topics will likely be addressed at future meetings. Any suggestions for additional agenda items are welcome.

a. Court technology reengineering. Randy Cecrle, the court's Information Technology Manager, has requested time to discuss the court's business process reengineering efforts relating to vocational rehabilitation, including a review of the results of the technology survey recently completed by counselors and planning for future "stakeholder" focus meetings.

b. Plan justification and plan approval/denial process. Continuing discussions as

needed.

c. Changes to VR Plan Form.

d. Changes to Case Closure Form. The legislature is increasingly requesting information regarding the vocational rehabilitation program and the success of vocational rehabilitation plans. However, existing data is insufficient to allow the court to respond fully to these requests. Could the Case Closure Form be amended to provide the necessary data, and if so, what data should be collected?

e. Job Placement Plans. What is the counselor's role and what are the counselor's obligations in a job placement plan?